



DEC 14 2012

The Honorable John P. De Jongh, Jr.  
Governor of the U. S. Virgin Islands  
21-22 Kongens Gade  
Charlotte Amalie  
St. Thomas, Virgin Islands 00802

Dear Governor De Jongh:

The U. S. Department of Labor, Employment and Training Administration (ETA) acknowledges receipt of the U. S. Virgin Islands' State Plan for Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act (W-P) on September 17, 2012. ETA also acknowledges receipt of the U. S. Virgin Islands' subsequent withdrawal of its State Plan and waivers on December 7, 2012. In its request for withdrawal of the State Plan and waivers, the U. S. Virgin Islands also requested an extension of its existing State Plan and waivers to allow it adequate time to prepare a new five-year plan.

#### Extension of State Plan

The U. S. Virgin Islands' existing State Plan will expire on December 31, 2012. This letter constitutes a written determination under WIA Section 112 (29 USC 2822) that ETA is temporarily extending the approval of the U. S. Virgin Islands' State Plan for WIA Title I and the W-P Act, through June 30, 2013. The U. S. Virgin Islands must submit a full State Plan to ETA for Program Years (PYs) 2013-2016 no later than April 15, 2013, in accordance with guidance provided in Training and Employment Guidance Letter (TEGL) No. 21-11.

The U. S. Virgin Islands' is eligible to receive WIA formula allotments for Adult, Dislocated Worker, and Youth programs, and W-P program allotments, effective July 1, 2012, through June 30, 2013.

#### Performance Levels

Each year, the Regional Administrator negotiates the PY's WIA and W-P performance goals with each state. As required by TEGL No. 21-11, negotiations must be completed by December 31, 2012, for PY 2012. Performance negotiations between the Regional Office and the U. S. Virgin Islands are finalized. The U. S. Virgin Island must include the final negotiated performance levels for PY 2012 with their new State Plan.


## Waivers

As part of the U. S. Virgin Islands' request to extend its WIA/W-P State Plan, the U. S. Virgin Islands requested a temporary extension of its previously approved waivers of statutory and regulatory requirements under WIA for PY 2012. In a letter dated June 26, 2012 (copy enclosed), ETA provided the disposition of the State's waivers. This letter extends approvals for those waivers under the same terms and conditions through June 30, 2013. This action is taken under the Secretary's authority at WIA Section 189(i) to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the W-P Act.

The approved waivers are incorporated by reference into the U. S. Virgin Islands' WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and this constitutes a modification of the State Plan. A copy of this letter should be filed with the U. S. Virgin Islands' WIA Grant Agreement and the approved State Plan. In addition, as described in TEGL No. 29-11, the U. S. Virgin Islands should address the impact these waivers have had on the U. S. Virgin Islands' performance in the WIA annual performance report, due on October 1 of each year.

ETA's Boston Regional Office will contact the U. S. Virgin Islands to provide technical assistance as it develops its State Plan. If you have any questions related to the issues discussed above, please contact Ms. T. Lee Reynolds, the Federal Project Officer for the U. S. Virgin Islands, at 617-788-0130 or [Tricia.Reynolds@dol.gov](mailto:Tricia.Reynolds@dol.gov).

Sincerely,

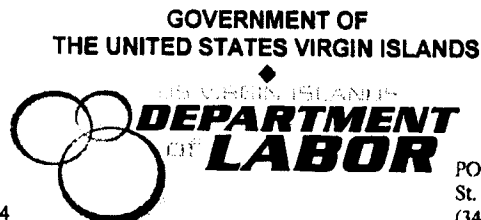
  
Jahe Oates  
Assistant Secretary

Enclosure

cc: Holly O'Brien, Regional Administrator, ETA Boston Regional Office  
T. Lee Reynolds, Federal Project Officer for the U. S. Virgin Islands



4401 Sion Farm  
Christiansted, VI 00820-4245  
(340)773-1994, Fax (340)773-0094



PO Box 302608 - Charlotte Amalie  
St. Thomas, VI 00803-2608  
(340)776-3700, Fax (340)774-5908

*Albert Bryan Jr. - Commissioner*

December 6, 2012

Mrs. Holly C. O'Brien  
Regional Administrator  
US Department of Labor  
Employment & Training Administration  
John F. Kennedy Federal Building - Room E-350  
Boston, MA 02203

Dear Mrs. O'Brien:

Please accept this message as official notice that the Government of the United States Virgin Islands Department of Labor is officially withdrawing our WIA/WP State Plan originally submitted for your review on September 17, 2012, until such time as the Virgin Islands is in full compliance with the requirements for a business majority state board.

We understand that a number of Region 1 states have been asked to withdraw their state plans due to non-compliance with state board membership and that the Virgin Islands and other states will have until April 30, 2013 to bring the board membership into full compliance with WIA regulations.

In addition, assuming our request to withdraw the new plan is approved, the Virgin Islands requests that our current WIA/WP Plan, and the waivers currently in place be extended through June 30, 2013 to assure a WIA/WP state plan is in effect as required by law, and to allow for sufficient time for review and approval of a new plan by all parties to the process.

If you would please confirm receipt of this message, I would greatly appreciate it. Thank you.

Sincerely,

Albert Bryan Jr.  
Commissioner

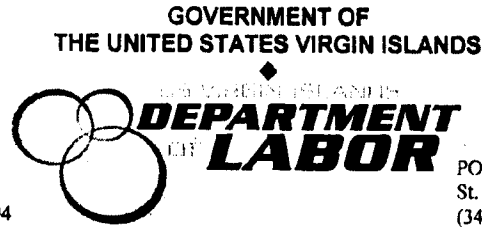
cc: Honorable John P. de Jongh, Jr., Governor  
Nathan Simmonds, Deputy Chief of Staff, Office of the Governor  
Richard Difede, Chairman, Virgin Islands Workforce Investment Board

**"Labor Works...Let Labor Work For You."**

The Virgin Islands Department of Labor is an Equal Opportunity Employer with Equal Opportunity Programs. Auxiliary aids and services are available upon request to individuals with disabilities.



4401 Sion Farm  
Christiansted, VI 00820-4245  
(340)773-1994, Fax (340)773-0094



PO Box 302601 -Charlotte Amalie  
St. Thomas, VI 00803-2608  
(340)776-3700, Fax (340)774-5908

*Albert Bryan Jr. – Commissioner*

December 6, 2012

Mrs. Holly C. O'Brien  
Regional Administrator  
US Department of Labor  
Employment & Training Administration  
John F. Kennedy Federal Building - Room E-350  
Boston, MA 02203

Dear Mrs. O'Brien:

Please accept this message as official notice that the Government of the United States Virgin Islands Department of Labor is officially withdrawing our WIA/WP State Plan originally submitted for your review on September 17, 2012, until such time as the Virgin Islands is in full compliance with the requirements for a business majority state board.

We understand that a number of Region 1 states have been asked to withdraw their state plans due to non-compliance with state board membership and that the Virgin Islands and other states will have until April 30, 2013 to bring the board membership into full compliance with WIA regulations.

In addition, assuming our request to withdraw the new plan is approved, the Virgin Islands requests that our current WIA/WP Plan, and the waivers currently in place be extended through June 30, 2013 to assure a WIA/WP state plan is in effect as required by law, and to allow for sufficient time for review and approval of a new plan by all parties to the process.

If you would please confirm receipt of this message, I would greatly appreciate it. Thank you.

Sincerely,

  
Albert Bryan Jr.  
Commissioner

cc: Honorable John P. de Jongh, Jr., Governor  
Nathan Simmonds, Deputy Chief of Staff, Office of the Governor  
Richard Difede, Chairman, Virgin Islands Workforce Investment Board

**"Labor Works...Let Labor Work For You."**

The Virgin Islands Department of Labor is an Equal Opportunity Employer with Equal Opportunity Programs. Auxiliary aids and services are available upon request to individuals with disabilities.

**U.S. Department of Labor**

Assistant Secretary for  
Employment and Training  
Washington, D.C. 20210



JUN 26 2012

The Honorable John P. De Jongh, Jr.  
Governor of the US Virgin Islands  
21-22 Kongens Gade  
Charlotte Amalie  
St. Thomas, Virgin Islands 00802

Dear Governor De Jongh:

This letter provides approval of an extension of US Virgin Islands' current Workforce Investment Act (WIA) and Wagner-Peyser Act (W-P) State Plan for a portion of Program Year (PY) 2012. This letter also provides approval of extensions for the Territory's current waivers and its new waiver request. Training and Employment Guidance Letter (TEGL) No. 21-11, issued on March 27, 2012, provides guidance for states to secure approval of their WIA/W-P State Plans and waivers for PY 2012. In accordance with TEGL No. 21-11 and your extension request, the US Virgin Islands must submit a full five-year WIA/W-P State Plan and annual W-P Agricultural Outreach Plan by September 15, 2012.

Extension of State Plan

The US Virgin Islands' existing State Plan will expire on June 30, 2012. This letter constitutes a written determination under WIA Section 112 (29 USC 2822) that the Employment and Training Administration (ETA) is temporarily extending the approval of the US Virgin Islands' State Plan for WIA Title I and the Wagner-Peyser Act into PY 2012, for the period July 1, 2012 through December 31, 2012. The US Virgin Islands already received its formula allotment for the WIA Youth program for PY 2012. The Territory is eligible to receive WIA formula allotments for the Adult and Dislocated Worker programs under the PY 2012 Annual Funding Agreement. The W-P Annual Funding Agreement on PY 2012/Fiscal Year 2013 will provide the W-P Act initial base allocation of PY 2012 funds.

Performance Levels

The Territory requested to temporarily extend its existing PY 2011 WIA and W-P performance goals for a portion of PY 2012. ETA has incorporated these performance goals, identified as PY 2012 performance goals, into the

Regional and National Office copies of the US Virgin Islands' Plan. Please include these PY 2012 goals in the Territory's official copy of the US Virgin Islands Plan. As required by TEGL 21-11, the Territory must renegotiate its new PY 2012 goals upon submission of its full State Plan.

### Waivers

As part of the US Virgin Islands' extension of the WIA/W-P Act State Plan, and as described in TEGL No. 21-11, the Territory requested temporary extensions of its PY 2011 waivers of statutory and regulatory requirements under WIA for PY 2012. The disposition of the Territory's waiver extensions as well as its new waiver request is outlined below. This action is taken under the Secretary's authority at WIA Section 189(i) to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act.

#### Waiver of WIA Section 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The US Virgin Islands was previously granted a waiver to permit an increase in the amount a state is allowed to transfer between the Adult and Dislocated Worker funding streams. The US Virgin Islands is granted an extension of this waiver through December 31, 2012. Under the waiver, transfer authority is limited to 50 percent. This limitation provides states flexibility while ensuring consistency with Congressional intent regarding the level of funding appropriated for the WIA Adult and Dislocated Worker programs.

#### Waiver of the required 50 percent employer contribution for customized training at WIA Section 101(8)(C).

The US Virgin Islands was previously granted a waiver of the required 50 percent employer contribution for customized training to permit the use of a sliding scale for the employer contribution based on the size of the business. The US Virgin Islands is granted an extension of this waiver through December 31, 2012. Under the waiver, the following sliding scale is permitted: 1) no less than 10 percent match for employers with 50 or fewer employees, and 2) no less than 25 percent match for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent contribution) continue to apply. When determining the funding source for customized training, the US Virgin Islands must use the appropriate program funds for the appropriate WIA-eligible population. The US Virgin Islands may

provide customized training to individuals 18 years of age or older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the US Virgin Islands may provide customized training to dislocated workers with WIA Dislocated Worker funds. Customized training provided with statewide funds must serve WIA eligible individuals.

Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The US Virgin Islands was previously granted a waiver to permit an increase in employer reimbursement for on-the-job training through a sliding scale based on the size of the business. The US Virgin Islands is granted an extension of this waiver through December 31, 2012. Under the waiver, the following reimbursement amounts will be permitted: 1) up to 90 percent for employers with 50 or fewer employees, and 2) up to 75 percent for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent reimbursement) will continue to apply. When determining the funding source for on-the-job training, the US Virgin Islands must use the appropriate program funds for the appropriate WIA-eligible population. The US Virgin Islands may provide on-the-job training to individuals 18 years or older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the US Virgin Islands and local area may provide on-the-job training to dislocated workers with WIA Dislocated Worker funds. On-the-job training provided with statewide funds must serve WIA eligible individuals.

Waiver of WIA Section 134(a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training.

The US Virgin Islands was previously granted a waiver to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA Section 134(a)(3), specifically incumbent worker training. The US Virgin Islands is granted an extension of this waiver through December 31, 2012. Under this waiver, the US Virgin Islands is permitted to use up to 20 percent of rapid response funds for incumbent worker training only as part of a layoff aversion strategy. ETA believes limiting incumbent worker training to layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. The US Virgin Islands is required to report performance outcomes for any incumbent

workers served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

Waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The US Virgin Islands was previously granted a waiver to permit local areas to conduct allowable statewide activities as defined under WIA Section 134(a)(3) with local WIA formula funding, specifically incumbent worker training. The US Virgin Islands is granted an extension of this waiver through December 31, 2012. Under this waiver, the US Virgin Islands is permitted to allow local areas to use up to 10 percent of local Dislocated Worker funds and up to 10 percent of local Adult funds for incumbent worker training only as part of a layoff aversion strategy. Use of Adult funds must be restricted to serving lower income adults under this waiver. ETA believes limiting incumbent worker training to the specified level and requiring it to be a part of layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. Local areas must continue to conduct the required local employment and training activities at WIA Section 134(d), and the US Virgin Islands is required to report performance outcomes for any individual served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

Waiver of 20 CFR 666 and 667.300(a) to reduce the collection of participant data for incumbent workers.

The US Virgin Islands was previously granted a waiver of the requirements to reduce the data collection burden for employers participating in WIA-funded incumbent worker training programs. The waiver permits the US Virgin Islands to discontinue the collection of the following Workforce Investment Act Standardized Record Data (WIASRD) elements: single parent (117), unemployment compensation eligible status at participation (118), low income



(119), TANF (120), other public assistance (121), homeless individual and/or runaway (125), and offender (126). The US Virgin Islands is granted an extension of this waiver through December 31, 2012.

Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

The US Virgin Islands was previously granted a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older youth and out-of-school youth program participants. The US Virgin Islands is granted an extension of this waiver through December 31, 2012. Under this waiver, the US Virgin Islands can use ITAs for older youth and out-of-school youth program participants. The US Virgin Islands must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The US Virgin Islands should ensure that funds used for ITAs are tracked and that the ITAs are reflected in the individual service strategies for these youth.

Waiver to permit the US Virgin Islands to replace the performance measures at WIA Section 136(b) with the common measures.

The US Virgin Islands was previously granted a waiver that allows the US Virgin Islands to replace the 17 performance measures under WIA Section 136(b) with the common measures. The US Virgin Islands is granted an extension of this waiver through December 31, 2012.

This waiver permits the US Virgin Islands to negotiate and report WIA outcomes against the common performance measures only, rather than the performance measures described at WIA Section 136(b). The US Virgin Islands will no longer negotiate and report to ETA on the following WIA measures: WIA adult and dislocated worker credential rates; participant and employer customer satisfaction; older youth measures; and younger youth measures. The US Virgin Islands will use the three adult common performance measures to negotiate goals and report outcomes for the WIA Adult and WIA Dislocated Worker programs. The US Virgin Islands will use the three youth common performance measures to negotiate goals and report outcomes for the WIA Youth program. Workforce Investment Act Standardized Record Data system (WIASRD) item 619, Type of Recognized Credential, should be completed for each individual as appropriate, regardless of this waiver to report on common performance measure outcomes only.

New Waiver

Waiver of WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d)) to exempt the state from the requirement to conduct evaluations.

The US Virgin Islands has requested a waiver of the requirement to conduct evaluations of workforce investment activities for adults, dislocated workers, and youth in order to establish and promote continuous improvement of the statewide workforce investment system. The Territory is granted this waiver effective July 1, 2011 through December 31, 2012.

The approved waivers are incorporated by reference into the US Virgin Islands' WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and this constitutes a modification of the US Virgin Islands Plan. A copy of this letter should be filed with the US Virgin Islands' WIA Grant Agreement and the approved State Plan. In addition, as described in TEGL No. 29-11, the US Virgin Islands should address the impact that these waivers have had on the Territory's performance in the WIA annual performance report, due on October 1 of each year.

We look forward to receiving your full State Plan for PY 2012 and working together as you implement your workforce strategies. If you have any questions related to the issues discussed above, please contact Tim Theberge the Federal Project Officer for US Virgin Islands, at 617-788-0139 or [Theberge.Timothy@dol.gov](mailto:Theberge.Timothy@dol.gov).

Sincerely,



Jane Oates  
Assistant Secretary

Enclosure

cc: Holly O'Brien, Regional Administrator, ETA Boston Regional Office  
Tim Theberge, Federal Project Officer for US Virgin Islands